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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re: Applications Ser. Nos. 77/005,920; 77/005,921; and 77/005,923
Published: October 2, 2007; September 25, 2007; and September 25, 2007, respectively
Applicant: Etchegaray Farms, LLC
Mark: **SUNMET**

SUN-MAID GROWERS OF CALIFORNIA,

Opposer

v.

ETCHEGARAY FARMS, LLC,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Commissioner for Trademarks
P. O. Box 1451
Alexandria, Virginia 22313-1451

Madam:

SUN-MAID GROWERS OF CALIFORNIA, (“Opposer”), a California corporation having a place of business at 13525 South Bethel Avenue, Kingsburg, CA 93631, believes it will be damaged by the registration in International Classes 29 and 32 of the mark **SUNMET** shown in Applications Serial Nos. 77/005,920, 77/005,921, and 77/005,923, owned by Etchegaray Farms, LLC, with a mailing address of P.O. Box 964, Visalia, CA 93279, and



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published in the Official Gazette on October 2, 2007; September 25, 2007; and September 25, 2007, respectively, and hereby opposes registration thereof.

As grounds for opposition, Opposer alleges:

1. Opposer owns Registration No. 252,224 for SUN-MAID for "fresh grapes" in International Class 31. Opposer's application for said registration was filed on July 23, 1928 (well before Applicant's September 23, 2006 filing date), and matured to registration on January 29, 1929. Opposer has used the mark SUN-MAID on and in connection with the sale of the aforementioned goods since at least as early as July, 1925.

2. Opposer owns Registration No. 178,829 for SUN-MAID for "raisin syrup for food purposes, raisin-seed salad oil, mincemeat, dried fruits and raisins, raisins and nuts in their natural state, and canned raisins" in International Class 29. Opposer's application for said registration was filed on November 19, 1922 (well before Applicant's September 23, 2006 filing date), and matured to registration on January 29, 1924. Opposer has used the mark SUN-MAID on and in connection with the sale of the aforementioned goods since at least as early as November, 1922.

3. Opposer owns Registration No. 3,008,771 for SUN-MAID for "raisins, dried cherries, mixed dried fruits, diced mixed dried fruits, dried figs, dried peaches, dried plums, dried prunes, dried apricots, dried apples, dried dates, chopped dates, dried cranberries, raisin paste, jams, jellies, fruit preserves, dried nectarines, dried pears, fruit butters, fruit spreads, and marmalades" in International Class 29; "yogurt covered raisins, chocolate covered raisins, mixed raisins and coated nuts, raisin bran muffin mix, oatmeal raisin cookie mix, raisin bread, fruitcake, bagels with raisins, English muffins with raisins, raisin rice pudding; fruit syrup, candy bars,

chocolate covered nuts, chocolate covered fruits, chocolate raisin clusters, candy coated raisins, cranberry bread" in International Class 30; and "fruit juices and fruit juice concentrates" in International Class 32. Opposer's application for said registration was filed on July 28, 2004 (well before Applicant's September 23, 2006 filing date), and matured to registration on October 25, 2005. Opposer has used the mark SUN-MAID on and in connection with the sale of the aforementioned goods in Classes 29 and 30 since at least as early as April, 1915, and in Class 32 since at least January, 1916.

4. By virtue of Opposer's extensive use and promotion of the SUN-MAID mark, Opposer has established valuable goodwill in the mark, and the public has come to associate the mark with Opposer. As such, the public has come to know SUN-MAID as an indication of products originated from Opposer.

5. As a result of Opposer's extensive advertising, sales, and marketing, Opposer's SUN-MAID mark is famous and well known to purchasers.

6. Applicant filed U.S. Trademark Applications Serial Nos. 77/005,920, 77/005,921, and 77/005,923 (the "Applications"), which are the subject of this Opposition, on September 23, 2006, in connection with "processed fruit and nuts, namely canned, bottled, frozen, dehydrated, vacuum-packed, aseptically-packaged, sliced and diced, almonds, apples, cherries, kiwi fruit, oranges, nectarines, peaches, pistachio nuts, plums, pomegranates, table grapes (excluding dehydrated grapes), wine grapes, and other fruits" in International Class 29; and "light beverages, namely, juice concentrates and single-strength juices from fruits and vegetables" in International Class 32.

7. As such, on information and belief, Applicant's intended goods, as described in the Application, are highly related, and often identical, to the goods and services identified in Opposer's registrations for SUN-MAID.

8. As a result of the similarity between Opposer's SUN-MAID mark and Applicant's SUNMET mark and the highly related nature of the goods associated with each party's respective mark, Applicant's mark is likely to cause confusion, mistake or deception in the trade and among purchasers as to the source, origin or sponsorship of the parties' respective goods.

9. Registration of the mark in the Applications and use of Applicant's mark are likely to dilute Opposer's famous SUN-MAID mark.

10. Registration of Applicant's mark shown in the opposed Applications will result in damage to Opposer under the provisions of § 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), and § 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), pursuant to the allegations stated above.

11. If the Applications are permitted to register, the registrations would presumptively entitle Applicant to *prima facie* exclusive ownership and rights to the SUNMET mark. Such registrations would cause confusion among consumers as to the separate and distinct sources of Applicant's goods and Opposer's goods and the relationship of Opposer to Applicant, thereby damaging Opposer's goodwill in the SUN-MAID mark, diluting the value thereof, and resulting in irreparable harm to Opposer's business and reputation, all to the detriment of Opposer who has expended considerable sums and effort in promoting the SUN-MAID mark.

WHEREFORE, Opposer prays that this Opposition be sustained and that registration of U.S. Trademark Applications Serial Nos. 77/005,920, 77/005,921 and 77/005,923 be denied.

Please charge any necessary fee regarding this Opposition to the Deposit Account of Townsend and Townsend and Crew LLP, 20-1430, and credit any overpayment to such deposit account.

Please direct all notices, pleadings and process regarding this matter to the undersigned.

Marc M. Gorelnik
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Respectfully submitted,

TOWNSEND and TOWNSEND and CREW LLP

Dated: January 14, 2008

By: 

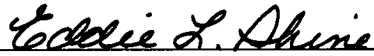
Marc M. Gorelnik
Attorneys for Opposer

PROOF OF SERVICE

I hereby certify that on January 14, 2008, I served a copy of the foregoing document entitled **NOTICE OF OPPOSITION** by depositing a true and correct copy of the same with the United States Postal Service, first class mail, postage prepaid, in an envelope addressed to:

D. Greg Durbin, Esq.
McCormick, Barstow, Sheppard,
Wayte & Carruth LLP
5 River Park Place East
Fresno, CA 93720
Attorney for Applicant

Dated: January 14, 2008



Eddie L. Shine